

AMENDMENT(S) TO THE DRAWINGS

Please amend Figs. 3, 4, and 5 as indicated in red on the attached Annotated Sheet. A Replacement Sheet presenting replacement figures which incorporate the desired changes is also attached in the Submitted Drawings section of this amendment.

Please amend Figs. 11e and 11f as indicated in red on the attached Annotated Sheet. A Replacement Sheet presenting replacement figures which incorporate the desired changes is also attached in the Submitted Drawings section of this amendment.

REMARKS

Claims 57-100 are pending in the present application, with claims 58-65 and 69-97 being withdrawn from consideration. Claims 57, 66-68 and 98-100 were rejected. By the present amendment, claims 57, 66, 67, 68, 98, 99 and 100 have been amended. This application continues to include claims 57-100.

Reconsideration of the rejection of claims 57, 66-68 and 98-100 is respectfully requested.

Applicants' representative thanks the Examiner for the courtesies extended during the interview conducted on May 28, 2009, in which claims 57, 66-68 and 98-100 were discussed in view of proposed amendments. Also discussed were references US 4,989,614 (Dejter, Jr. et al.) and US 5,964,716 (Gregoire, et al.). A biopsy device of the type claimed was demonstrated. Applicants' representative thanks the Examiner for the indication that the proposed amendments appear to overcome the prior art of record. No agreement was reached with respect to the claims during the interview.

Amendments to Specification and Drawings

U.S. Patent Application No. 11/680,882 is a continuation of the present application. During recent prosecution in U.S. Patent Application No. 11/680,882, the drawings and specification were amended to correct errors. Accordingly, Applicants have amended the specification and drawings in the present application to be consistent with the amendments made in U.S. Patent Application No. 11/680,882.

Information Disclosure Statement

It is respectfully requested that the Examiner enter the Information Disclosure Statements of June 29, 2004 and October 11, 2005, and consider each patent and publication listed in the

Information Disclosure Statement that is in the English Language, notwithstanding that the Information Disclosure Statement may have included an identification of references that are not in the English Language.

Response to Claim Rejection Under 35 U.S.C. §112, Second Paragraph

Claim 68 was rejected under 35 U.S.C. §112, second paragraph, as being indefinite. Applicants have amended claim 68, and as such is believed to address the Examiner's concerns under 35 U.S.C. 112, second paragraph. Accordingly, it is respectfully requested that the rejection of claim 68 under 35 U.S.C. §112, second paragraph, be withdrawn.

Response to Claim Rejection Under 35 U.S.C. §102(b)

Claim 57 was rejected under 35 U.S.C. §102(b) as being anticipated by US 4,989,614 (Dejter, Jr. et al.).

Dejter , Jr. et al. discloses with respect to Figs. 1a-1f schematic illustrations of the positions of a needle 2, a stylet 3, a syringe 4 and a plunger 5, relative to a fixed casing 1 and a needle sheath 6 during a fine needle aspiration procedure. (Column 6, lines 22-26). As illustrated in Fig. 13, the needle 13 is directly connected to syringe 4. As illustrated in Figs. 2, 5 and 7, a finger guide 13 is provided at or near the end of the needle sheath 6 to assist the operator in manipulating the tip of the sheath. Additionally, to facilitate manipulation of the needle assembly, a sheath positioning handle 14 is provided. Handle 14 is attachable (e.g., by snap fit) to the sheath 6 at any desired location along a handle attachment area 12 so as to be positionable for either right or left hand usage and longitudinally adjustable. (Column 8, lines 56-66).

Claim 57 has been amended to further define the invention over the cited references. In contrast to Dejter , Jr. et al., claim 57, as amended, recites, "A biopsy device for tissue collection,

comprising: a housing containing a power source; and a removable element, comprising a biopsy needle module and a pressure source, wherein the removable element is configured for integration into the housing with the pressure source being contained within the housing, and a hollow connecting element communicatively coupled between the biopsy needle module and the pressure source; wherein the biopsy device is configured for entirely single-handed operation by a physician, the biopsy device being self-contained and having no cables or lines extending from the housing to external units.” (Emphasis added).

It is respectfully submitted that such structure is not disclosed, taught or suggested by Dejter, et al, and thus is allowable in its present form, Accordingly, it is respectfully requested that the rejection of claim 57 under 35 U.S.C. §102(b) as being anticipated by US 4,989,614 (Dejter, Jr. et al.) be withdrawn.

Response to Claim Rejection Under 35 U.S.C. §103(a)

Claims 66 and 98 were rejected under 35 U.S.C. §103(a) as being unpatentable over US 4,989,614 (Dejter, Jr. et al.).

Dejter, Jr. et al. was discussed above, and for brevity will not be repeated here.

Claim 66 depends from claim 57. Thus claim 66 is believed allowable as being dependent from an otherwise allowable base claim.

In addition, claim 66 has been amended to further define the invention over the cited references. Claim 66, as amended, recites, “The biopsy device according to claim 57, wherein the housing comprises a lower housing segment with lateral walls of different heights, a housing lid matched to the lower housing segment and having a longitudinally displaceable locking mechanism, and a first end lid and a second end lid, each connected to the lower housing segment, wherein the second end lid comprises a first U-shape opening and a second U-shape opening,

wherein each of the first U-shape opening and the second U-shape opening is configured to receive a respective intermediate portion of the removable element.” (Emphasis added).

Thus, it is respectfully submitted that such structure as recited in claim 66 is not disclosed, taught or suggested, or otherwise rendered obvious, by Dejter, et al, and thus claim 66 is believed allowable in its own right.

Claim 98 as amended recites, “A biopsy device for tissue collection, comprising: a housing containing a power source, wherein the housing comprises a lower housing segment with lateral walls, a housing lid matched to the lower housing segment and having a longitudinally displaceable locking mechanism, and a first end lid and a second end lid, each connected to the lower housing segment; and a removable element, comprising a biopsy needle module and a pressure source, wherein the removable element is configured for integration into the housing; wherein the biopsy device is configured for single-handed operation by a physician, the biopsy device being self-contained and having no cables or lines extending from the housing to external units.” (Emphasis added).

It is respectfully submitted that such structure as recited in claim 98 is not disclosed, taught or suggested, or otherwise render obvious, by Dejter, et al, and thus claim 98 is believed allowable in its present form.

Accordingly, for at least the reasons set forth above, it is respectfully requested that the rejection of claims 66 and 98 as being unpatentable under 35 U.S.C. §103(a) over US 4,989,614 (Dejter, Jr. et al.) be withdrawn.

Claims 67, 68, 99 and 100 were rejected under 35 U.S.C. §103(a) as being unpatentable over US 4,989,614 (Dejter, Jr. et al.) in view of US 5,964,716 (Gregoire, et al.).

Dejter, Jr. et al. was discussed above, and for brevity will not be repeated here.

Gregoire, et al. discloses with respect to Fig. 1 a non-self contained biopsy instrument 30 having an external vacuum source 86 and an external control unit 87 that are tethered to the probe assembly 45 and the probe driver 31, respectively. As shown in Fig. 1, probe driver 31 is configured to receive probe assembly 45 in two opposing slots formed in the housing of probe driver 31. While two additional opposing slots are shown, neither of the additional slots receives a portion of the probe assembly 45. Also, probe driver 31 is not a handheld device, as it is mounted to a movable table 20.

Each of claims 67 and 68 is believed allowable as being dependent from an otherwise allowable base claim 57 and/or intervening claim 66, since Gregoire, et al does not overcome the deficiencies of Dejter, Jr. et al. with respect to claim 57.

Also, claims 67 and 68 further and patentably define the invention over the cited references.

For example, claim 67 as amended recites, “The biopsy device according to claim 66, wherein the first end lid comprises a third U-shaped opening at the top thereof, the third U-shaped opening being sized to receive a front portion of the removable element.” (Emphasis added). Referring back to claim 66, claim 66 recites in part, “a first end lid and a second end lid, each connected to the lower housing segment, wherein the second end lid comprises a first U-shape opening and a second U-shape opening, wherein each of the first U-shape opening and the second U-shape opening is configured to receive a respective intermediate portion of the removable element.”

It is respectfully submitted that the combined disclosures of Dejter, Jr. et al. and Gregoire, et al. do not disclose, teach or suggest, or otherwise render obvious, a structure wherein first, second and third U-shaped openings respectively receive portions of the removable element, and thus claim 67 is believed allowable in its own right.

Claim 68 as amended recites, “The biopsy device according to claim 66, wherein at least a portion of the hollow connecting element extends between the first U-shape opening and the second U-shape opening external to the housing.” (Emphasis added). It is respectfully submitted that the combined disclosures of Dejter, Jr. et al. and Gregoire, et al. do not disclose, teach or suggest, or otherwise render obvious, a structure wherein at least a portion of a hollow connecting element extends between the first U-shape opening and the second U-shape opening external to the housing, and thus claim 68 is believed allowable in its own right.

Each of claims 99 and 100 is believed allowable as being dependent from an otherwise allowable base claim 98, since Gregoire, et al does not overcome the deficiencies of Dejter, Jr. et al. with respect to claim 98.

Also, claims 99 and 100 further and patentably define the invention over the cited references.

For example, claim 100 as amended recites, “The biopsy device according to claim 98, wherein the second end lid comprises a first U-shape opening and second U-shape opening, wherein each of the first U-shape opening and the second U-shape opening is configured to receive a respective portion of the removable element, with at least a portion of the hollow connecting element extending between the first U-shape opening and the second U-shape opening.” (Emphasis added). It is respectfully submitted that the combined disclosures of Dejter, Jr. et al. and Gregoire, et al. do not disclose, teach or suggest, or otherwise render obvious, a structure wherein each of the first U-shape opening and the second U-shape opening is configured to receive a respective portion of the removable element, with at least a portion of the hollow connecting element extending between the first U-shape opening and the second U-shape opening, and thus claim 100 is believed allowable in its own right.

Accordingly, for at least the reasons set forth above, it is respectfully requested that the rejection of claims 67, 68, 99 and 100 under 35 U.S.C. §103(a) as being unpatentable over US 4,989,614 (Dejter, Jr. et al.) in view of US 5,964,716 (Gregoire, et al.) be withdrawn.

Claims 57, 66-68 and 98-100 were rejected under 35 U.S.C. §103(a) as being unpatentable over US 5,964,716 (Gregoire, et al.) as modified by US 4,989,614 (Dejter, Jr. et al.).

It is respectfully submitted that Gregoire, et al. as modified by Dejter, Jr. et al. does not disclose, teach or suggest, or otherwise render obvious, the respective subject matters of claims 57, 66-68 and 98-100, as amended, for substantially the same reasons set forth above.

Accordingly, it is respectfully requested that the rejection of claims 57, 66-68 and 98-100 under 35 U.S.C. §103(a) as being unpatentable over US 5,964,716 (Gregoire, et al.) in view of US 4,989,614 (Dejter, Jr. et al.) be withdrawn.

For the foregoing reasons, Applicants submit that the present application is in condition for allowance in its present form, and it is respectfully requested that the Examiner so find and issue a Notice of Allowance in due course.

In the event Applicants have overlooked the need for an extension of time, an additional extension of time, payment of fee, or additional payment of fee, Applicants hereby conditionally petition therefor and authorize that any charges be made to Deposit Account No. 20-0095, TAYLOR & AUST, P.C.

Should any question concerning any of the foregoing arise, the Examiner is invited to telephone the undersigned at (317) 894-0801.

Respectfully submitted,

/Ronald K. Aust, Reg. No. 36735/

Ronald K. Aust
Registration No. 36,735
Attorney for Applicants

RKA/ts

TAYLOR & AUST, P.C.
12029 E. Washington Street
Indianapolis, IN 46229
Telephone: 317-894-0801
Facsimile: 317-894-0803

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SUBMITTED DRAWINGS

Drawings that are being submitted include Replacement Sheets and Annotated Sheets, as indicated on the pages that follow.

ANNOTATED SHEET

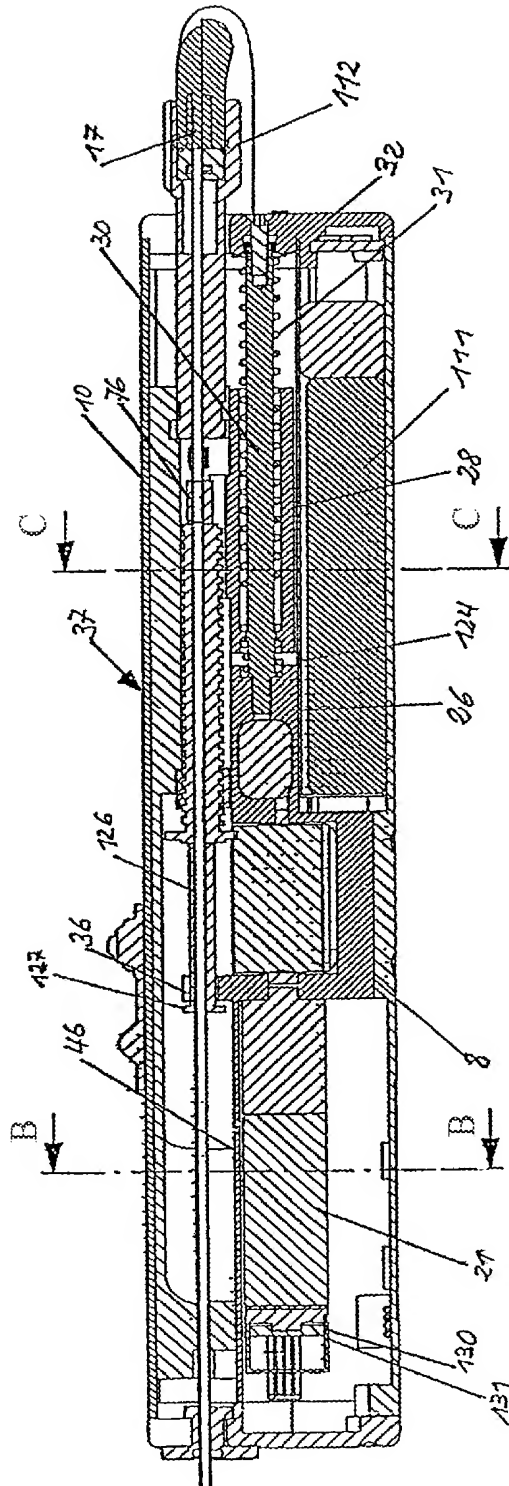


Fig. 3

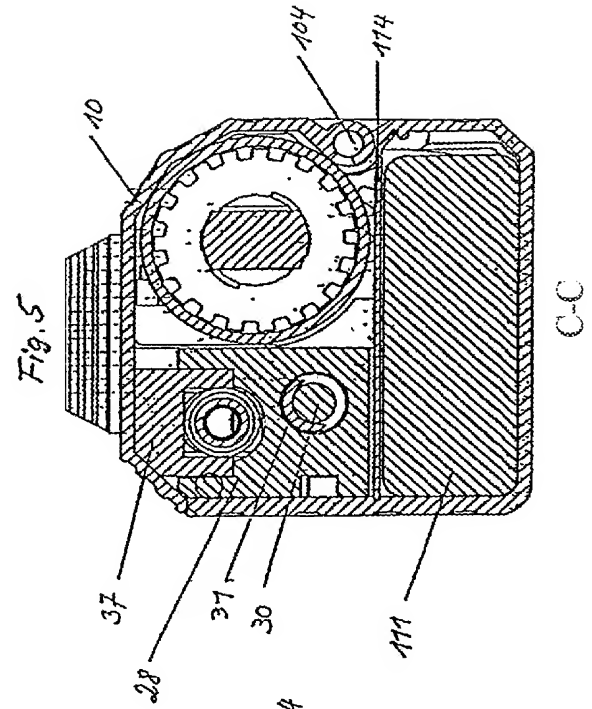
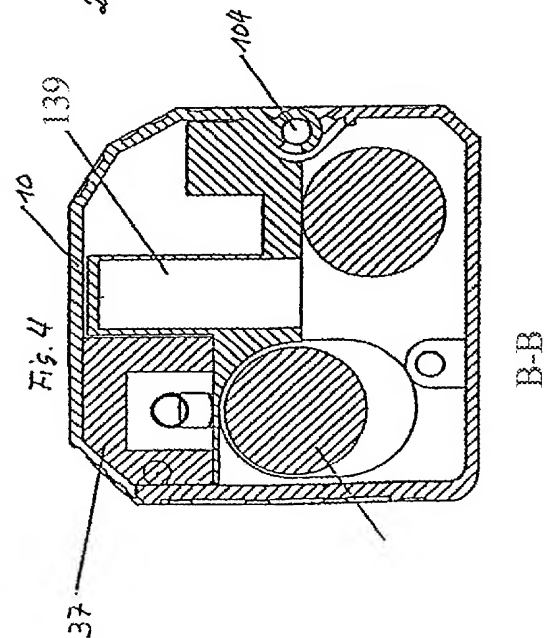


Fig. 5



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